

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT**

SABRINA KOEHLER,

Plaintiff,

V.

NEW AMERICAN FUNDING, *d/b/a*

Brokers Solutions, Inc., et al.,

Defendants.

No. 4:23-CV-1332 RLW

MEMORANDUM AND ORDER

The matter is before the Court on Plaintiff Sabrina Koehler's Motion for Leave to File an Amended Complaint. (ECF No. 32). The motion is unopposed.

Plaintiff, who is proceeding in this matter pro se without the assistance of counsel, filed her Complaint on October 23, 2023, against Defendants New American Funding, d/b/a Brokers Solutions, Inc., and Midland Mortgage. Defendant New American Funding did not answer or otherwise respond to the Complaint, and Plaintiff moved for the entry of default pursuant to Fed. R. Civ. P. 55(a), which was granted on November 28, 2023. On December 19, 2023, New American Funding LLC, f/k/a Brokers Solutions, Inc., d/b/a New American Funding, filed a motion to quash service of process and strike the entry of default. New American Funding LLC states in its motion that it was misnamed in the Complaint, and that it was improperly served, in that the individual named in the proof of service did not have authority to receive service of process on its behalf. This motion remains pending. On December 15, 2023, Defendant Midland Mortgage filed a motion to dismiss for failure to state a claim pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6). This motion is also pending.

Plaintiff filed her Motion to Leave to File an Amended Complaint on January 4, 2024.

Plaintiff states that she seeks leave to file an Amended Complaint to cure the defects raised in

Defendants' motions. Under Fed. R. Civ. P. 15(a)(1)(B), Plaintiff does not need leave of Court to amend and may file her First Amended Complaint as a matter of course, because it was filed within 21 days after service of a motion under Rule 12(b). Therefore, Plaintiff's Motion for Leave to Amend will be denied as moot, as she was entitled to file her Amended Complaint without leave of Court. That said, the Court will not direct the Clerk to docket the proposed Amended Complaint attached to Plaintiff's Motion, because the exhibits attached thereto are mislabeled. For example, there are two Exhibits D, two Exhibits E, and Exhibits G and K are missing. In addition, Plaintiff failed to label each of her exhibits with both an exhibit designation and a brief description of the exhibit, as required by Section II.F. of the Court's CM/ECF Procedures Manual. The Court will order Plaintiff to file her Amended Complaint with exhibits that are each labeled with a proper designation and brief description. Once the Amended Complaint is filed, the Court will take up New American Funding LLC's motion to quash service of process and strike the entry of default and Defendant Midland Mortgage's motion to dismiss.

Accordingly,

IT IS HEREBY ORDERED that Sabrina Koehler's Motion for Leave to File an Amended Complaint is **DENIED** as moot. [ECF No. 32]

IT IS FURTHER ORDERED that on or before **February 9, 2024**, and consistent with the terms of this Memorandum and Order, Plaintiff Sabrina Koehler shall file her First Amended Complaint with exhibits that are each labeled with a proper designation and brief description.


RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 30th day of January, 2024.